

July 14, 1999

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL**

**SUBJECT:** Department of Development and Environmental Services File No. **L98P0049**  
Proposed Ordinance No. **1999-0307**

**UPLANDS RESERVE**  
Preliminary Plat Application

**Location:** Generally on the east side of Uplands Way Southeast, at the base of Rattlesnake Ridge and between 415th Avenue Southeast and Southeast 168th Street

**Property Owner/  
Applicant:** Plateau Associates  
Attn: Jay Allen  
1501 4th Avenue #2140  
Seattle, WA 98101  
(206) 689-7210

**SUMMARY OF DECISION:**

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions (modified)
Examiner's Decision:	Approve, subject to conditions (modified)

**PRELIMINARY MATTERS:**

Application submitted:	December 3, 1998
Complete application:	February 4, 1999

**EXAMINER PROCEEDINGS:**

Hearing Opened:	June 21, 1999, 9:45 AM
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Hearing Closed:

June 21, 1999, 2:40 PM

Administratively continued to 4:30 PM, June 22, 1999, in order to receive copies of draft Covenants, Conditions and Restrictions for Uplands Reserve

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**ISSUES/TOPICS ADDRESSED:**

- Downstream impacts
- Forest management
- Groundwater
- Landslide hazards
- SEPA conditions
- Streams
- Subdivision design
- Traffic impacts
- Wildlife protection

**SUMMARY:**

Preliminary plat approval is granted. Project consistency with the requirements of the Rural Forest Demonstration Project Ordinance is reviewed, as well as monitoring and maintenance responsibilities attendant to mitigation of debris flow hazards within hillside stream channels.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

1. General Information:

Developer: Plateau Associates  
2140 Century Square  
1501 Fourth Avenue  
Seattle, WA 98101  
(206) 689-7210

Engineer: OTAK  
620 Kirkland Way, Suite 100  
Kirkland, WA 98033  
(425) 822-4446

STR: Portions of 21-23-8; 22-23-8; 27-23-8; 28-23-8

Location: Generally on the east side of Uplands Way SE, at the base of Rattlesnake Ridge and between 415<sup>th</sup> Ave. SE and SE 168<sup>th</sup> Street.

Zoning: RA-2.5, RA-5 & RA-10 (Rural Forest Demonstration Project)

Acreage: 510 acres

Number of Lots: 41 lots

Density: Approximately one unit per 12.4 acres

Lot Size: Ranges from approximately 3 acres to 15 acres

Proposed Use: Single-family detached dwellings

Sewage Disposal: Individual on-site septic systems

Water Supply: Sallal Water Association

Fire District: King County Fire District No. 10

School District: Snoqualmie Valley #410

Date  
Application Filed: December 3, 1998

Date Determined  
Complete (vested): February 4, 1999 (correct legal description received)

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the June 21, 1999, public hearing are found to be correct and are incorporated herein by reference. The LUSD Staff recommends approval of the application, subject to conditions.
3. Plateau Associates has submitted a preliminary plat application to subdivide 510 acres into 41 lots for single family residential development. Actual residential development is proposed to be restricted to two acres on each lot, for an overall total of 81 acres. The remaining portions of each lot plus hillside common areas and stream corridors are to remain undeveloped subject to selective logging and forest restoration pursuant to a forest management plan. A road variance has been granted to the Applicant to construct and maintain the plat's interior roadway system as private facilities.
4. The Uplands Reserve site consists primarily of a flat wooded plateau located approximately two miles south of the City of North Bend and the Snoqualmie River. It is bordered on the southwest by the toe and lower slopes of Rattlesnake Ridge. The flat lower portions of the site have been regularly logged and are currently dominated by stands of small alder. The steeper mountainside slopes were last logged in 1978 and are revegetated with a mix of deciduous and conifer trees. An older stand of mostly conifers lies at the property's southwest corner. South of the Uplands Reserve property adjacent to proposed lots 2 and 3 lies the Wilderness Rim neighborhood, an older residential subdivision constructed at an urban density. To the east lies the plat of Uplands Snoqualmie Valley, also developed by Plateau Associates, which was approved in 1997 for 76 lots on 494 acres.
5. Until September 1998 the Uplands Reserve property had been included within the Forest Zone. The lowland portions of the site had been last logged in 1986, at which time active forest production was abandoned and the property segregated into large parcels for resale as residential sites. Following successful efforts to preserve Rattlesnake Ridge as a state park, negotiations were entered into between Plateau Associates and King County for the partial preservation of the

Uplands Reserve property. These discussions culminated in the passage by the County Council of Ordinance 13275 and the redesignation of the site to Rural zoning.

6. Ordinance 13275 permits the Applicant to achieve a higher density of residential development in exchange for preservation of the Uplands slopes and stream drainages in common area tracts to be governed by a conservation easement and a forest management plan. Responsibility for implementing the forest management plan and monitoring the site's myriad landslide hazard areas has devolved upon the subdivision homeowners' association, placing upon that property owner group an unusually high management and financial burden. Ordinance 13275 also creates some rather ambitious timeline requirements for County review of the subdivision, the conservation easement and the forest management plan. This factor, when combined with the novelty and complexity of the process and, as well, the pervasive sensitive areas issues which dominate the property, resulted in a preliminary plat hearing characterized by a large quantity of unfinished studies and regulatory loose ends.
7. Ordinance 13275 classifies the Uplands Reserve proposal as a Rural Forest Demonstration Project subject to the provisions of KCC Chapter 21A.55. This demonstration project is to provide "a tool to test the best methods to maintain forest resource uses on properties on which owners have chosen to discontinue commercial forestry management", with the more specific practical purpose to "test techniques to maintain long term forest uses in areas with a predominant parcel size significantly less than 80 acres which are located in proximity to residential development." The primary regulatory tool for implementing the demonstration project is a forest management plan covering the entire 510-acre site. This plan is to be developed jointly by the County Department of Natural Resources and the property owner, with input from state agencies and other interested parties. Authority to approve the plan is vested in the Director of the Department of Natural Resources. The required plan components consist of an inventory of existing conditions, forest management objectives "including water quality protection, habitat enhancement, maintenance of scenic areas, surface water management, and minimal impacts to neighbors", plus a reforestation and an operations and maintenance element. Management and monitoring are to be the responsibility of a stewardship committee of the homeowners' association, which will at least partially fund its activities from the proceeds of onsite logging activities. County enforcement of ordinance requirements is to be accomplished primarily through the mechanism of a conservation easement conveyed to the County at the time of final plat approval.
8. The duration of the Rural Forest Demonstration Project is to be five years from the date of final plat approval, during which period annual reports on the project process shall be submitted to the County by the homeowners' association stewardship committee. Shortly after the adoption of Ordinance 13275, Plateau Associates submitted to the County a draft forest management plan prepared by its forestry consultants. After a process of comment and response, the Applicant's plan was approved by Pam Bissonnette, Director of the County Department of Natural Resources, within a letter dated November 4, 1998. Ms. Bissonnette's letter observed that the "very short timeline for approval" of the plan has resulted in an abbreviated public review process. She also noted that "there are aspects of the plan that cannot be completed until final plat approval" but concluded that "nevertheless, the plan needs to be approved to move the demonstration project forward." Accordingly, subject to a list of specific future requirements, Ms. Bissonnette approved the management plan with the stipulation that future review of the subdivision design and conservation easement will need to demonstrate that they complement the

forest management plan and that "issues raised in future public review be addressed through a revision to the plan, if necessary".

9. The compressed processing schedule mandated for this application is also reflected within the SEPA review of the proposal conducted by DDES. A mitigated determination of nonsignificance was issued for Uplands Reserve on May 12, 1999. Two MDNS conditions were imposed, one requiring a "wildlife raptor nest survey prior to the public hearing on the plat" and the second an inventory of offsite pedestrian walkway conditions also to be completed by the plat hearing. Both MDNS conditions contain the further statement that after review of the new studies DDES shall determine if additional plat conditions are needed to address potential impacts.
10. Staff-proposed plat Condition No. 22 purports to promulgate SEPA conditions based on the May 12, 1999, MDNS. The first part of the condition requires the identification and preservation, where feasible, of "snags used by pileated woodpeckers for foraging and nesting". The second part requires the Applicant to provide "a brochure...to the initial homeowner of each lot, explaining the benefits and difficulties of living with wildlife at the edge of the forest." The brochure is also to include descriptions of "native and ornamental landscaping plants that are typically not eaten by deer and elk."
11. The Applicant is willing to comply with the snag preservation requirement stated in proposed Condition 22.A but objects to writing a wildlife brochure. This objection is well-founded. While one may sympathize with the timeline-induced difficulties faced by the staff, proposed Condition No. 22 cannot be justified as an appropriate exercise of SEPA substantive authority. Discussing SEPA substantive authority and mitigation, WAC 197-11-660(1)(b) requires that "mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal." This provision at the very least mandates that any staff plat condition based on SEPA authority be related to the environmental impacts specified within the MDNS. The wildlife issue identified by the MDNS was the need for a raptor nest survey, a matter entirely unrelated either to pileated woodpeckers or the nocturnal grazing habits of deer and elk. In a spirit of compromise the Applicant has agreed to produce a bibliography of existing articles on landscaping plants that are not normally found on the menu of local wildlife. Condition No. 22 has been revised to conform to the regulatory framework accepted by the Applicant, and references to SEPA authority have been deleted.
12. The principal sensitive areas issues which affect this site relate to the many streams which traverse the property. Clough Creek runs from south to north across the central portion of the Uplands Reserve property and discharges to the Snoqualmie River. The steep eastern slopes of Rattlesnake Ridge lying above the Uplands Reserve site contain seven major drainages that empty into Clough Creek. Onsite there are 11 separate tributaries that feed into Clough Creek, ten of which are potentially channels for debris flows off the upper slopes of Rattlesnake Ridge. As such they are designated by King County as landslide hazard areas. The major factors that contribute to creating debris flow risks in this location are the slope geology consisting of relatively loose glacial deposits over volcanic bedrock, the steepness of the upper slopes, and the history of area logging.
13. Debris flow risks are segregated into large and small events. A large event involving thousands of cubic yards of materials is characterized by a major soils failure and is often triggered by a

cataclysmic event such as an earthquake. It neither can be predicted nor is it subject to preventive mitigation. The overall risk on the site for a large flow event has been estimated as once every 100 years. When such an event occurs within an upper slope channel, it can be expected to block and likely damage the internal road system where the channel crosses it--costing tens of thousands of dollars to remediate. The primary mitigations for a large debris flow are the loop road design, which will preserve road circulation capacity during an emergency, and the homeowner association mechanism for funding and managing damage repair.

14. Small debris flows are both more frequent and more manageable. Small debris flow events can be expected to occur on the site from two to five times each decade, a rate which may increase during wet cycles but also should decrease over time as the history of up-slope logging becomes more remote. The primary mechanism for creating a small debris flow is the accumulation of logs and rock material in a cache within the stream channel, which accumulation is suddenly released by a major storm or a rain-on-snow event. Culverts under roads can be sized and inclined so that most small flows should pass through. Additional preventive mitigation measures include the installation of debris fences upstream of culvert inlets in order to catch larger flow materials so that they do not block the culvert. Recent reconnaissance of the slopes indicates that two of the tributary channels now have upstream caches of debris that may be released. Generally, the prediction is that debris flow events will be contained within the defined stream channels and will not result in overland impacts.
15. Periodic monitoring of the slopes above the Uplands Reserve property is capable of identifying problem areas and producing specific strategies for mitigation of small debris flow impacts. Such monitoring is conducted by helicopter due to the steep terrain and has recently produced a baseline study against which future changes can be compared. It is anticipated that monitoring flights will be initially a yearly occurrence, perhaps later decreasing to every two years, with special monitoring required when exceptional circumstances occur such as rain-on-snow events, 50-year frequency storms, earthquakes, or nearby fire. Again, the long term responsibility for conducting the monitoring program will fall to the subdivision homeowners' association.
16. Clough Creek and its major tributaries are considered to be salmon-bearing streams, and a number of issues regarding the design of fish passage culverts have yet to be resolved. Due to Snoqualmie Falls and other blockages downstream, no anadromous fish reach this portion of the Clough Creek system, and native salmonids are limited to populations of cutthroat trout. The process of wetland identification on the site is also ongoing, and lot reconfiguration may be required to create further sensitive areas tracts for newly discovered wetlands.
17. Concerns related to site drainage impacts have been raised by the City of North Bend. The City notes that there is a history of flooding on the lower reaches of Clough Creek just above its entry into the South Fork of the Snoqualmie River. Surface water runoff from the plat has been studied, and soils explorations indicate a sufficient thickness of glacial upper soils in most locations to support onsite infiltration of stormwater. Accordingly, infiltration will be required on all individual lots pursuant to systems designed at the time of building permit issuance. Road system drainage will also be collected and infiltrated to the maximum extent feasible, with any excess detained and released at the highly restrictive King County Road Standards ("KCRS") Level 3 standard. The Upland Reserve site's contribution to downstream drainages subject to flooding is relatively small, and there is no evidence that these procedures will be inadequate to prevent exacerbation of flooding conditions. Technical observers have generally concluded that

downstream flooding is largely the result of backwash from the South Fork during high water periods, and as such should be regarded as a regional problem.

18. The City has also expressed concern as to whether flows from Upland Reserve may result in the contamination of the regional aquifer. Again, no evidence suggesting this outcome has been presented, and the available geological information indicates that such an effect is unlikely. The glacial outwash soils on site are underlain by bedrock, so infiltrated flows will percolate through the glacial materials to the bedrock surface, then migrate downslope into Clough Creek. In short, the site does not presently recharge the deep aquifer, and after development it will likely neither recharge nor contaminate it.
19. The traffic impact analysis done for the Applicant predicts that the project will generate an average of 420 vehicle trips per day, with 38 assigned to the AM peak hour and 48 trips to the PM peak. County Intersection Standards thresholds will be met by project traffic at the intersection of North Bend Boulevard with Interstate 90, where the level of service ("LOS") currently at C is predicted to go to LOS E in the project's 2003 horizon year. In various letters the City of North Bend has questioned whether other nearby intersections should be added to the analysis list, expressed doubt whether the 3% growth rate used by the traffic impact analysis is accurate, suggested that the weekend level of service at the I-90 intersections should be analyzed due to the prevalence of congestion conditions at that time, proposed that traffic impacts should be analyzed according to the City's level of service standards (which require mitigation at level of service E), and outlined some conceptual intersection improvements to which the Applicant might be required to contribute.

Without questioning the seriousness of the City's interest in these issues, there are compelling reasons why this plat process cannot be respond to them. First, no supporting documentation has been submitted challenging the data contained in the traffic study. The 3% growth rate is based on historical data and is in addition to the traffic which will be generated by Uplands Snoqualmie Valley adjacent to the northeast. Further, no analysis has been presented that suggests that Uplands Reserve traffic would contribute significantly to weekend traffic congestion. Finally, in the absence of an interlocal agreement, the City's level of service standards cannot be applied to a King County plat review, and no mitigation has been requested by the Washington Department of Transportation, the agency with jurisdiction over the I-90 ramps.

20. The plat review process has generated an element of significant disagreement between the Applicant and County staff over the kinds of conditions that are appropriate to this project. For the most part, these disputes center on the proper interpretation to be accorded Ordinance 13275 and the need to craft conditions that are responsive to its unique requirements. Beginning with a relatively simple issue, we agree with the Applicant that the ordinance assures to the proponent a development of 41 residential lots. Accordingly, language within Condition No. 7 referring to the potential need to reduce the number of lots to meet drainage requirements should be amended. Similarly, the ordinance clearly provides that the conservation easement shall be conveyed to the County upon final plat approval, and language within proposed Condition No. 23 that might be interpreted to the contrary warrants clarification.
21. Ordinance 13275 also requires the conservation easement to restrict residential development to an area not to exceed two acres for each lot. The staff recommends that the two-acre designation be made a requirement of the final plat in order to minimize the risk that unauthorized clearing

will occur either because a future lot owner or staff reviewing a building permit application will fail to comprehend the requirement. The Applicant's argument for deferring designation of the two-acre residential use area is that such deferral allows potential lots owners to maximize their own individual choices as to residential siting.

While both positions have merit, the need to provide a clear and adequate mechanism for implementing the two-acre restriction is compelling. If all lots within the plat are not constructed within the five years immediately following final approval, the likelihood that the two-acre use restriction will be properly effectuated will decrease. Condition No. 23 has been amended to require the final plat map to identify for each lot a two-acre residential use area, with the proviso that within five years of final approval an individual owner may file a record of survey redesignating the residential use area for his or her lot.

22. Ordinance 13275 further states that the forest management plan for the project site shall contain "a reforestation element consistent with these management objectives including establishment of stream buffers of 183 feet for Class 2 streams with salmonids and 100 feet for Class 3 streams." A dispute has arisen between the staff and the Applicant as to whether within these expanded stream buffers the full menu of sensitive areas requirements and restrictions stated within KCC Chapter 21A.24 shall apply. Staff takes the position that the full range of SAO restrictions contained in KCC Chapter 21A.24 apply to the expanded buffers, but has offered a condition which employs a rather permissive definition of the kinds of alterations permitted by the regulations. The Applicant, on the other hand, takes the position that SAO requirements only apply to the regulated SAO buffers, and that the extra width provided under Ordinance 13275 is exempt from the SAO, only to be regulated by the conservation easement. The ordinance itself is silent as to the meaning of the expanded stream buffer term.
23. The Applicant's attorney, Mr. Greenfield, argued that in discussions with King County the expanded buffers were always understood as simply a mechanism for excluding residential development, but the record does not entirely support his position. In a letter dated November 4, 1998, to Laurie Grant in the County Office of Regional Policy and Planning, Mr. Greenfield offered the following description of the expanded buffers:

"The 183-foot and 100-foot stream buffers were suggested by King County during our discussions creating the Project and are now required in the Demonstration Project Ordinance. These buffers are substantially more extensive than those required by the King County Sensitive Areas Ordinance or the state Forest Practices Act. Both the SAO and the FPA will continue to regulate activities on the property and both the SAO and FPA will be considered in managing the site. To the extent that either regulation prohibits an activity otherwise permitted by the Project within the super buffers, such activity will not be done."

It is interesting to note, however, that Mr. Greenfield in the same letter refers to the forest management plan strategy of thinning alders out of the riparian buffer area and replacing them with conifer plantings. In like manner, the approved management plan discusses the need to conduct limited forest practices within the expanded buffer area to remove alders and replace them with conifers in order to improve fisheries habitat. As proposed by the plan, replacement of alders within the riparian buffers by conifers "will increase overstory diversity, create a future



source of future large woody debris for stream habitat and contribute to stream shading."

24. At the public hearing staff geologist Steve Bottheim identified a further consideration bearing upon the regulatory buffer width issue. In reviewing landslide hazard issues associated with debris flows within stream channels, Mr. Bottheim stated that he relied upon the application of SAO requirements to the entire expanded buffer width in concluding that adequate risk mitigation had been provided. He stated that if the regulatory integrity of the full expanded buffer width were put into doubt he would be required to reconsider his earlier conclusions.
25. This dispute is difficult to resolve simply on the basis of the regulatory language. In support of the staff's position, the language within Ordinance 13275 referring to stream buffers for Class 3 streams and Class 2 streams with salmonids clearly adopts the SAO nomenclature. In the absence of directions to the contrary, such usage implies that the terms will carry their normal SAO connotations. On the other hand, in support of the Applicant's position, the language creating super width buffers appears within the context of a description of the reforestation element of the forest management plan, where a management objective of establishing stream buffers of the increased widths is articulated. This implies usage of the term "stream buffers" in a qualitative sense, *i.e.*, as a habitat goal to be attained. Such usage is also consistent with the findings of the stream study performed for the Applicant by Taylor Associates in August 1998, which note that prior logging activity along the streams left relatively narrow buffers with little capacity for providing shading or contributing large woody debris.
26. While it appears that some of the Applicant's prior representations concerning this issue were misleading, we are persuaded that the overall purpose of the expanded stream buffer provision is to afford an opportunity for buffer improvement and enhancement, a goal which would be frustrated by too strict enforcement of SAO requirements beyond normal regulatory boundaries. But Mr. Bottheim's concern over landslide hazard issues within the expanded buffer areas also needs to be addressed. Accordingly, Condition No. 20 has been revised to allow forest practices within the expanded portion of the stream buffers when authorized by the approved forest management plan, reviewed by the DDES geologist for consistency with landslide hazard risk avoidance, and regulated by a clearing and grading permit. It is also our view that the forest management plan as presently enacted does not contain sufficient detail to justify specific forest practice activities within the stream buffers; a more detailed plan will need to be submitted before such activities take place.
27. Finally, the Applicant has contested the imposition of a geotechnical condition requiring the field survey of all 40% slopes on the site. The Applicant believes that its digitized aerial mapping provides adequate slopes data and contends that most steep slopes are far enough moved from residential areas that slope protection will not be seriously compromised even if precise slope boundaries have not been determined. Mr. Bottheim has responded to this concern by proposing a revised condition that allows the Applicant to submit a reduced scope or focus of the project area to be surveyed.

This is a technical issue where substantial deference needs to be accorded to the staff geologist's views. In the absence of relevant exhibits the Examiner can only speculate as to the adequacy of digitized aerial photographs to provide the information required. Moreover, since the portions of lots available to residential development will be subject to redesignation and therefore cannot be automatically removed from steep slope delineation requirements, our conclusion is that the

substance of Mr. Bottheim's revised condition needs to be implemented. Minor amendments to the condition's language have been made to focus its operation on the development portions of the site.

**CONCLUSIONS:**

1. If approved subject to the conditions required below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements which promote legitimate public purposes; are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

**DECISION:**

The preliminary plat of Uplands Reserve as revised and received May 24, 1999, is APPROVED, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the density requirements of the RA-2.5, RA-5, RA-10 zone classifications. All lots shall meet the minimum dimensional requirements of the RA-2.5, RA-5 and RA-10 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. Note, the plat shall not exceed 41 lots, per Ordinance Nos 13273 & 13275..
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.

If all lots are 35,000 square feet in size or more, or if the subdivision is outside an Urban Growth Area and is developed at a density no greater than one residential building lot per five (5) acres,

or a cluster development outside an Urban Growth Area with lots under 35,000 square feet in size and offsetting permanent open space and is developed at a density no greater than one residential building lot per five (5) acres, the subdivision is exempt per KCC 17.08.030.

7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04. Compliance may result in reconfiguration of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code. Requirements shall apply to all plats.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

8. The stormwater detention facilities for this project (including residential lots) shall be designed using the KCRTS Level 3 methodology as outlined in the 1998 King County Surface Water Design Manual.
9. Individual lot stormwater infiltration/detention is proposed for the lots within this development. A proposed typical design of the infiltration/detention design shall be shown on the engineering plans at engineering plan submittal. Appropriate geotechnical evaluation shall also be provided at engineering plan submittal for the infiltration design as required by the 1998 King County Surface Water Design Manual (KCSWDM).

For those lots that are designated for individual lot infiltration/detention systems, the systems shall be constructed at the time of the building permit issuance and shall comply with the KCSWDM. The following note shall be placed on the final plat: "Individual lot stormwater/detention systems for the lots shall be designated and located at building permit submittal. These systems shall be designed according to the 1998 King County Surface Water Design Manual.

10. The following road improvements are required for this subdivision to be constructed according to 1993 King County Road Standards:
  - a. Road F shall be improved to the rural subaccess road standard.

- b. Roads X and Y shall be improved to the rural minor access road standard.
  - c. Access Tract 1 serving lots 3 and 4, and Tract 2 serving lots 11 and 12, shall be improved as joint use driveways according to Section 3.01 of the King County Road Standards. Design of the joint use driveway shall be shown on the engineering plans at engineering plan submittal.  
  
Access Tract 5 serving lots 21, 22, 23 and 24, shall be designed as a private access road per Section 2.09 of the king County Road Standards.  
  
Access Tract 6 serving lots 25, 26 and 27 shall be designed as a private access road per Section 2.09 of the King County Road Standards.
  - d. Modifications to the above road conditions may be considered by King County pursuant to the variance procedure in the King County Road Standards Section 1.08.
  - e. Road Variance L98V0145 was approved for this project. All conditions of approval for this variance shall be met upon submittal of the engineering plans.
11. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
  12. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
  13. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
  14. There shall be no direct vehicular access to or from Uplands Way SE from those lots which abut it, with the exception of the private access tracts. A note to this effect shall appear on the engineering plans and final plat.
  15. Off-site access to the subdivision shall be over a full-width, dedicated and improved road which has been accepted by King County for maintenance (Uplands Way SE-SE 62<sup>nd</sup> Way). If the proposed access road has not been accepted by King County at the time of recording, then said road shall be fully bonded by the applicant of this subdivision.

16. Lots to be served from private access tracts and/or joint use driveways shall have undivided ownership of Tracts and be responsible for their maintenance. A note to this effect shall be placed on the engineering plans and final plat.
17. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.

Sensitive Areas:

18. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
19. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE  
AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

20. Preliminary plat review has identified the following issues which apply to this project. All other applicable requirements for sensitive areas shall also be addressed by the applicant.

Wetlands and Streams:

- a. The applicant shall submit an addendum wetland study, which evaluates potential

wetland areas in the vicinity of the Clough Creek road crossing. This study shall be submitted for review and approval to DDES Senior Ecologist, prior to engineering plan submittal.

- b. Wetlands and their buffers shall be placed in separate sensitive area tracts.
- c. Streams and their respective buffers shall be placed in sensitive area tracts. Buffer widths for all Class 2 with salmonid streams shall be 183 feet, and 100 feet for all Class 3 streams. (Ordinance 13275).
- d. A minimum 15 foot building setback line shall be required from the edge of the sensitive area buffers and/or tracts.
- e. If alterations of streams and/or wetlands are approved in conformance with KCC 21A.24, then a plan to mitigate for impacts from that alteration will be required to be reviewed and approved along with the plat engineering plans. A performance bond or other financial guarantee will be required at the time of plan approval, to guarantee that the mitigation measures are installed according to the plan. A maintenance bond will be required for the remainder of the five-year monitoring period to guarantee the success of the mitigation. The applicant shall be responsible for the installation, maintenance and monitoring of any approved mitigation. The mitigation plan must be installed prior to final inspection of the plat.
- f. Diameter size of all non-fish passage proposed culvert installations under Road F shall be designed per the criteria defined in the 1998 Surface Water Design Manual.
- g. All fish passage culvert crossings for Clough Creek Tributaries that flow under Road F shall meet installation guidelines for culvert placement per the 1998 Surface Water Design Manual and the Washington State Department of Fish and Wildlife, 1999 Fish Passage Design of Road Culverts Manual. Fish passages for salmonid bearing tributaries shall be designed as required by the 1998 SWDM and the Washington State Department of Fish and Wildlife, 1999 Fish Passage Design of Road Culverts Manual. The culvert designs will be reviewed and approved by a DDES Senior Ecologist prior to engineering plan approval.
- h. The stream crossing for Clough Creek shall be designed to meet the culvert or bridge design criteria per the 1998 SWDM and the Washington State Dept. of Fish and Wildlife 1999 Fish Passage Design of Road Culverts Manual. Details of this design and crossing location shall be reviewed by DDES Sr. Ecologist and review engineer, prior to engineering plan approval.
- i. The geotechnical consultant shall confirm that the culverts have been sized to pass debris flows. This study shall be submitted for review and approval by DDES Geologist and Review engineer, prior to engineering plan approval.
- j. Trash racks shall not be installed upstream of the culvert inlets on the Class 2 salmonid streams. Stream channels shall not be riprapped or otherwise lined, upstream or downstream of any culvert crossing.

- k. A brochure derived from available literature shall be provided to the initial owners of each lot explaining how pesticides and metal-based fertilizers can harm fish and stream environments, and shall identify alternative pesticides and fertilizers for use on lawn and garden areas, as approved by DDES Senior Ecologist prior to engineering plan approval.
- l. No commercial forest practices shall occur within any portion of the property that lies within streams, wetlands and their buffers subject to the jurisdictional requirements of KCC 21A.24. The requirements of KCC 21A.24 also shall apply to the conduct of forest practices and other enhancement activities for the purpose of maintaining and enhancing water quality, fish and wildlife habitat and biological diversity (including thinning out the alders and replacing them with cedar and other conifer species, removal of diseased trees, the clearing of invasive weeds and underbrush, and the planting of native species) within the augmented stream buffers established pursuant to KCC 21A.55.050.C.1c unless the following conditions are met:
  - i. The practice or activity is authorized by the approved forest management plan;
  - ii. The DDES geologist has reviewed the proposed practice or activity and determined that it will not materially increase the risk of either the occurrence of or damage from a landslide hazard; and
  - iii. A clearing and grading permit is obtained for the activity or practice.

A note containing the foregoing provisions shall be placed on the engineering plans and the final plat.

#### Geotechnical

- m. Determine the top, toe, and sides of all 40% slopes on lots and adjacent to lot boundaries and other proposed development by field survey; provided that, the Applicant may submit a reduced scope or focus of project area to be surveyed for review and approval by the DDES geologist prior to commencing survey activity. This supplemental review may demonstrate that the slopes lie far enough removed from areas of potential development that no additional survey is required. Provide a 50-foot buffer from 40% slopes. The buffer may be reduced with the submittal of a satisfactory soils report, subject to King County geologist review and approval (KCC 21A.24.310).
- n. The applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in KCC 21A.06.415). The delineation of such areas shall be approved by a DDES geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.
- o. The steep slopes and their respective buffers(s) shall be placed in Sensitive Area Tract(s).

- p. A minimum building setback line of 15 feet shall be required from the edge of the SAT.
  - q. Prior to engineering plan approval, a long-term debris flow monitoring and mitigation plan shall be developed and submitted to the DDES geologist for review and approval. The design shall be based on recommendations provided by a qualified geologic consulting firm, with experience in hillslope geomorphology and hazard mitigation. The plan shall include a schedule for site reconnaissance, a reporting format, triggers for non-scheduled inspections (i.e. weather events, forest fires), and action plan requirements for hazard mitigation.
    - i. The monitoring plan shall be implemented by a geologic consultant who will be retained by the homeowners' association and provide monitoring of landslide/debris flow hazard and mitigation.
    - ii. The Applicant shall provide a payment to be set aside, in a method and account suitable to DDES for the benefit of the homeowners' association, to provide for the monitoring of the landslide hazard/debris flow mitigation, prior to final recording.
    - iii. The following note shall be placed on the final plat:  
  
 "The private road system for this plat traverses landslide hazard areas. Ongoing monitoring of debris flow risks and occasional maintenance and repair of roadways impacted by landslide activity will be funded by the subdivision homeowners' association."
  - r. The applicant provide a payment to be set aside, in a method and account suitable to DDES for the benefit of the homeowner's association for the monitoring of the landslide hazard/debris flow mitigation, prior to final recording.
21. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the open space area(s), Sensitive Area Tract(s), Forest Management Tract(s), roads and grass shoulders, and long-term monitoring of landslide debris flow hazard and mitigation by a qualified geologic consulting firm with experience in hill slope geomorphology and hazard mitigation.
22. Wildlife:
- a. Snags used by pileated woodpeckers for foraging and nesting shall be identified on the engineering plans, and the plat shall be designed so that these snags remain undisturbed where feasible.
  - b. The initial purchaser of each lot shall be provided notice that wildlife, particularly deer and elk, can be expected to damage landscaping plants. A list of publications describing native and ornamental plant species that are typically not eaten by deer and elk shall also be provided, as reviewed by DDES prior to engineering plan approval.
23. The applicant shall demonstrate compliance with the requirements of Ordinance 13275 prior to



engineering plan approval and convey to King County a conservation easement prior to final plat approval.

- a. The engineering plans and final plat shall contain notes implementing the Forest Demonstration Project Ordinance and the conservation easement, including prohibitions on future subdivision, restrictions regarding residential use of lots (maximum two acres), use of the property in conformance with the forest management plan, and creation of a dedicated fund and stewardship committee for homeowners' association implementation of the forest management plan.
  - b. The engineering plans and final plat shall designate for each lot a two-acre residential use area; provided that, within five years of final plat approval an owner may redesignate the residential use area for any undeveloped lot by filing for record with the King County Department of Records and Elections a survey delineating such area which includes all portions of the lot (except driveways and utility easements) that have been previously cleared. A note to this effect shall be placed on the final plat.
24. The forest management plan approved on November 4, 1998, contains conceptual forest management goals and strategies. The plan may be revised or amended in the same manner provided for its initial adoption. Implementation of forest practices and enhancement activities within the expanded stream buffers established by Ordinance 13275 will require prior review and approval of site-specific forest management plan amendments.

ORDERED this 14th day of July, 1999.

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Stafford L. Smith, Deputy  
King County Hearing Examiner

TRANSMITTED this 14th day of July, 1999, to the following parties and interested persons:

Cory Carlson  
Ed Carlson  
Roger Dorstad  
James A. Greenfield  
Stephanie Huber  
Joyce Jansen  
Milton Lim  
Eleanor Moon  
Otak, Inc  
Palmer Park  
Plateau Associates  
Mary Ann Reinhart

Steve Taylor  
Wash State Dept of Ecology  
Rosemary Ziara  
Greg Borba  
Steve Bottheim  
Laura Casey  
Kim Claussen  
Dick Etherington  
Rich Hudson  
Greg Poels  
Bruce Whittaker

### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before July 28, 1999**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before August 4, 1999**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

Stafford L. Smith was the Hearing Examiner in this matter. Participating at the hearing were Kim Claussen, Bruce Whittaker, Laura Casey, Steve Bottheim, Aileen McManus, Jim Greenfield, Jay Allen, Mary Ann Reinhart and Milton Lim.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L98P0049
- Exhibit No. 2 Department of Development and Environmental Services preliminary report to the Hearing Examiner dated June 21, 1999
- Exhibit No. 3 Application dated February 4, 1999 (original December 3, 1998)
- Exhibit No. 4 Environmental checklist dated December 3, 1998, revised April 13, 1999
- Exhibit No. 5 Mitigated determination of nonsignificance dated May 12, 1999
- Exhibit No. 6 Affidavit of Posting indicating June 2, 1999, as date of posting and June 3, 1999, as the date the affidavit was received by the DDES
- Exhibit No. 7 Plat map dated May 24, 1999 (revision)
- Exhibit No. 8 Plat map dated June 15, 1999 (revision received)
- Exhibit No. 9 Assessors maps SE 16-23-8; 21-23-8; 22-23-8; NW & SW 27-23-8; NE 28-28-8; 34-23-8
- Exhibit No. 10 Health certificate dated October 14, 1998
- Exhibit No. 11 Ordinance 13273
- Exhibit No. 12 Ordinance 13275
- Exhibit No. 13 Letter dated March 2, 1999, from Kim Claussen, Land Use Services Division, to Jay Allen, Century letter dated March 2, 1999 Pacific Century

Exhibit No. 14 Letter dated January 15, 1999, from Steve Taylor, Senior Planner, City of North Bend, to Kim Claussen, DDES

- Exhibit No. 15 Letter dated June 21, 1999 (faxed June 18, 1999) from Steve Taylor (Planner, City of North Bend) to Kim Claussen (DDES)
- Exhibit No. 16 Letter dated November 4, 1998, from Pam Bissonnette (King County Department of Natural Resources) to James Greenfield (attorney for Applicant) and Forest Management Plan
- Exhibit No. 17 Wetland, Wildlife, Fisheries and Habitat Assessment of the Plateau dated September 12, 1995, prepared by the ERC Group
- Exhibit No. 18 Wetland and Wildlife Habitat Assessment dated March 12, 1999, prepared by Raedeke Associates, Inc.
- Exhibit No. 19 Letter dated June 14, 1999, from Mark A. Everett (Raedeke Associates) to Jay Allen (Plateau Associates) regarding additional wetland delineation
- Exhibit No. 20 Level 1 Downstream Analysis and Conceptual Drainage Plan Overview dated November 1998, prepared by Otak, Inc.
- Exhibit No. 21 Letter dated March 19, 1999, from Otak to Bruce Whittaker (DDES) addressing additional DDES questions
- Exhibit No. 22 Drainage narrative prepared by Otak received March 8, 1999
- Exhibit No. 23 Traffic Impact Analysis dated April 8, 1996, prepared by The Transpo Group
- Exhibit No. 24 Memorandum dated September 17, 1996, from Larry Toedtli (The Transpo Group) to Jay Allen (Century Pacific Real. Estate Advisors) re Uplands Residential Development: Secondary Access Alternatives
- Exhibit No. 25 Traffic Impact Analysis dated December 15, 1998, prepared by The Transpo Group
- Exhibit No. 26 Report: Geological and Geotechnical Services Drainage and Road Subgrade Evaluation Phase II, Uplands Reserve, dated August 31, 1998, prepared by GeoEngineers
- Exhibit No. 27 Supplemental Geotechnical Report dated September 25, 1998, prepared by GeoEngineers
- Exhibit No. 28 Second Supplemental Geotechnical Report dated February 26, 1999, prepared by GeoEngineers
- Exhibit No. 29 Memorandum dated April 23, 1999, from Mary Ann Reinhart and Jon W. Koloski (GeoEngineers) to Jay Allen (Century Pacific) re preliminary evaluation summary of public safety risks
- Exhibit No. 30 Report Supplement No. 3 Geological and Geotechnical Services Stormwater Infiltration Feasibility Phase II dated March 5, 1999, prepared by GeoEngineers
- Exhibit No. 31 Report Supplement No. 4 Geological and Geotechnical Services Debris Flow Channel Evaluation and Downstream Flooding Impacts Phase II dated April 26, 1999, prepared by GeoEngineers
- Exhibit No. 32 Report Supplement No. 5 Geological and Geotechnical Services Debris Flow Channel Evaluation and Landslide Hazard Area Delineation Phase II dated May 21, 1999, prepared by GeoEngineers
- Exhibit No. 33 Omitted
- Exhibit No. 34 Letter dated May 11, 1999, from Raedeke Associates to Jay Allen re Supplemental Wildlife Study
- Exhibit No. 35 Letter dated June 14, 1999, from Raedeke Associates to Jay Allen re Additional Wetland Delineation
- Exhibit No. 36 King County Road Services Division variance decision dated April 28, 1999 (File Nos. L98V0092 and L98V0145)
- Exhibit No. 37 Revised Conceptual Drainage Plan dated November 1998 prepared by Otak, Inc.
- Exhibit No. 38 Revised recommendations submitted by staff

Exhibit No. 39 Notebook containing key documents submitted by Jim Greenfield, attorney for Applicant

Exhibit No. 40 New Condition No. 20.a submitted by staff

Exhibit No. 41 Plat map (in color) submitted by Applicant showing possible 2-acre sites

The following exhibits were entered pursuant to administrative continuance:

Exhibit No. 42 Letter dated June 21, 1999, from James A. Greenfield to Examiner with enclosed  
Declaration of Covenants, Conditions, Restrictions and Easements for Uplands Reserve

Exhibit No. 42 Letter dated June 22, 1999, from James A. Greenfield to Examiner with enclosed  
Declaration of Covenants, Conditions, Restrictions and Easements for Uplands  
Snoqualmie Valley

SLS:daz

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